

BI (Official Form 1)(4/10)

United States Bankruptcy Court Southern District of Texas		Voluntary Petition
Name of Debtor (if individual, enter Last, First, Middle): Diabetes America, Inc.		Name of Joint Debtor (Spouse) (Last, First, Middle):
All Other Names used by the Debtor in the last 8 years (include married, maiden, and trade names): FKA Diabetes Centers of America, Inc.		All Other Names used by the Joint Debtor in the last 8 years (include married, maiden, and trade names):
Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all): 20-1101570		Last four digits of Soc. Sec. or Individual-Taxpayer I.D. (ITIN) No./Complete EIN (if more than one, state all):
Street Address of Debtor (No. and Street, City, and State): 11321 Fallbrook Drive Houston, TX		Street Address of Joint Debtor (No. and Street, City, and State):
ZIP Code 77065		ZIP Code
County of Residence or of the Principal Place of Business: Harris		County of Residence or of the Principal Place of Business:
Mailing Address of Debtor (if different from street address):		Mailing Address of Joint Debtor (if different from street address):
ZIP Code		ZIP Code
Location of Principal Assets of Business Debtor (if different from street address above):		
Type of Debtor (Form of Organization) (Check one box) <input type="checkbox"/> Individual (includes Joint Debtors) <i>See Exhibit D on page 2 of this form.</i> <input checked="" type="checkbox"/> Corporation (includes LLC and LLP) <input type="checkbox"/> Partnership <input type="checkbox"/> Other (If debtor is not one of the above entities, check this box and state type of entity below.)	Nature of Business (Check one box) <input checked="" type="checkbox"/> Health Care Business <input type="checkbox"/> Single Asset Real Estate as defined in 11 U.S.C. § 101 (51B) <input type="checkbox"/> Railroad <input type="checkbox"/> Stockbroker <input type="checkbox"/> Commodity Broker <input type="checkbox"/> Clearing Bank <input type="checkbox"/> Other Tax-Exempt Entity (Check box, if applicable) <input type="checkbox"/> Debtor is a tax-exempt organization under Title 26 of the United States Code (the Internal Revenue Code).	Chapter of Bankruptcy Code Under Which the Petition is Filed (Check one box) <input type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 9 <input checked="" type="checkbox"/> Chapter 11 <input type="checkbox"/> Chapter 12 <input type="checkbox"/> Chapter 13 <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Main Proceeding <input type="checkbox"/> Chapter 15 Petition for Recognition of a Foreign Nonmain Proceeding Nature of Debts (Check one box) <input type="checkbox"/> Debts are primarily consumer debts, defined in 11 U.S.C. § 101(8) as "incurred by an individual primarily for a personal, family, or household purpose." <input checked="" type="checkbox"/> Debts are primarily business debts.
Filing Fee (Check one box) <input checked="" type="checkbox"/> Full Filing Fee attached <input type="checkbox"/> Filing Fee to be paid in installments (applicable to individuals only). Must attach signed application for the court's consideration certifying that the debtor is unable to pay fee except in installments. Rule 1006(b). See Official Form 3A. <input type="checkbox"/> Filing Fee waiver requested (applicable to chapter 7 individuals only). Must attach signed application for the court's consideration. See Official Form 3B.		Chapter 11 Debtors Check one box: <input type="checkbox"/> Debtor is a small business debtor as defined in 11 U.S.C. § 101(51D). <input type="checkbox"/> Debtor is not a small business debtor as defined in 11 U.S.C. § 101(51D). Check if: <input type="checkbox"/> Debtor's aggregate noncontingent liquidated debts (excluding debts owed to insiders or affiliates) are less than \$2,343,300 (amount subject to adjustment on 4/01/13 and every three years thereafter). Check all applicable boxes: <input type="checkbox"/> A plan is being filed with this petition. <input type="checkbox"/> Acceptances of the plan were solicited prepetition from one or more classes of creditors, in accordance with 11 U.S.C. § 1126(b).
Statistical/Administrative Information <input checked="" type="checkbox"/> Debtor estimates that funds will be available for distribution to unsecured creditors. <input type="checkbox"/> Debtor estimates that, after any exempt property is excluded and administrative expenses paid, there will be no funds available for distribution to unsecured creditors.		THIS SPACE IS FOR COURT USE ONLY
Estimated Number of Creditors <input type="checkbox"/> 1-49 <input type="checkbox"/> 50-99 <input checked="" type="checkbox"/> 100-199 <input type="checkbox"/> 200-999 <input type="checkbox"/> 1,000-5,000 <input type="checkbox"/> 5,001-10,000 <input type="checkbox"/> 10,001-25,000 <input type="checkbox"/> 25,001-50,000 <input type="checkbox"/> 50,001-100,000 <input type="checkbox"/> OVER 100,000		
Estimated Assets <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input checked="" type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion		
Estimated Liabilities <input type="checkbox"/> \$0 to \$50,000 <input type="checkbox"/> \$50,001 to \$100,000 <input type="checkbox"/> \$100,001 to \$500,000 <input type="checkbox"/> \$500,001 to \$1 million <input type="checkbox"/> \$1,000,001 to \$10 million <input checked="" type="checkbox"/> \$10,000,001 to \$50 million <input type="checkbox"/> \$50,000,001 to \$100 million <input type="checkbox"/> \$100,000,001 to \$500 million <input type="checkbox"/> \$500,000,001 to \$1 billion <input type="checkbox"/> More than \$1 billion		

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Page 2

Voluntary Petition*(This page must be completed and filed in every case)*

Name of Debtor(s):

Diabetes America, Inc.**All Prior Bankruptcy Cases Filed Within Last 8 Years (If more than two, attach additional sheet)**

Location

Where Filed: **- None -**

Case Number:

Date Filed:

Location

Where Filed:

Case Number:

Date Filed:

Pending Bankruptcy Case Filed by any Spouse, Partner, or Affiliate of this Debtor (If more than one, attach additional sheet)

Name of Debtor:

- None -

Case Number:

Date Filed:

District:

Relationship:

Judge:

Exhibit A

(To be completed if debtor is required to file periodic reports (e.g., forms 10K and 10Q) with the Securities and Exchange Commission pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 and is requesting relief under chapter 11.)

☐ Exhibit A is attached and made a part of this petition.

Exhibit B

(To be completed if debtor is an individual whose debts are primarily consumer debts.)

I, the attorney for the petitioner named in the foregoing petition, declare that I have informed the petitioner that [he or she] may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, and have explained the relief available under each such chapter. I further certify that I delivered to the debtor the notice required by 11 U.S.C. §342(b).

X

Signature of Attorney for Debtor(s)

(Date)

Exhibit C

Does the debtor own or have possession of any property that poses or is alleged to pose a threat of imminent and identifiable harm to public health or safety?

☐ Yes, and Exhibit C is attached and made a part of this petition.

☒ No.

Exhibit D

(To be completed by every individual debtor. If a joint petition is filed, each spouse must complete and attach a separate Exhibit D.)

☐ Exhibit D completed and signed by the debtor is attached and made a part of this petition.

If this is a joint petition:

☐ Exhibit D also completed and signed by the joint debtor is attached and made a part of this petition.

Information Regarding the Debtor - Venue

(Check any applicable box)

- ☒ Debtor has been domiciled or has had a residence, principal place of business, or principal assets in this District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.
- ☐ There is a bankruptcy case concerning debtor's affiliate, general partner, or partnership pending in this District.
- ☐ Debtor is a debtor in a foreign proceeding and has its principal place of business or principal assets in the United States in this District, or has no principal place of business or assets in the United States but is a defendant in an action or proceeding [in a federal or state court] in this District, or the interests of the parties will be served in regard to the relief sought in this District.

Certification by a Debtor Who Resides as a Tenant of Residential Property

(Check all applicable boxes)

- ☐ Landlord has a judgment against the debtor for possession of debtor's residence. (If box checked, complete the following.)

(Name of landlord that obtained judgment)

(Address of landlord)

- ☐ Debtor claims that under applicable nonbankruptcy law, there are circumstances under which the debtor would be permitted to cure the entire monetary default that gave rise to the judgment for possession, after the judgment for possession was entered, and
- ☐ Debtor has included in this petition the deposit with the court of any rent that would become due during the 30-day period after the filing of the petition.
- ☐ Debtor certifies that he/she has served the Landlord with this certification. (11 U.S.C. § 362(l)).

Voluntary Petition

Name of Debtor(s):

Diabetes America, Inc.*(This page must be completed and filed in every case)***Signatures****Signature(s) of Debtor(s) (Individual/Joint)**

I declare under penalty of perjury that the information provided in this petition is true and correct.
 [If petitioner is an individual whose debts are primarily consumer debts and has chosen to file under chapter 7] I am aware that I may proceed under chapter 7, 11, 12, or 13 of title 11, United States Code, understand the relief available under each such chapter, and choose to proceed under chapter 7.
 [If no attorney represents me and no bankruptcy petition preparer signs the petition] I have obtained and read the notice required by 11 U.S.C. §342(b).

I request relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X _____
 Signature of Debtor

X _____
 Signature of Joint Debtor

 Telephone Number (If not represented by attorney)

 Date

Signature of Attorney*

X _____
 Signature of Attorney for Debtor(s)

H. Joseph Acosta 24006731
 Printed Name of Attorney for Debtor(s)

Looper Reed & McGraw, P.C.
 Firm Name
1601 Elm Street Suite 4600
Dallas, Texas 75201

 Address

214-954-4135 Fax: 214-953-1332
 Telephone Number

12/17/10
 Date

*In a case in which § 707(b)(4)(D) applies, this signature also constitutes a certification that the attorney has no knowledge after an inquiry that the information in the schedules is incorrect.

Signature of Debtor (Corporation/Partnership)

I declare under penalty of perjury that the information provided in this petition is true and correct, and that I have been authorized to file this petition on behalf of the debtor.

The debtor requests relief in accordance with the chapter of title 11, United States Code, specified in this petition.

X _____
 Signature of Authorized Individual

Nicholas K. Val
 Printed Name of Authorized Individual

Chairman
 Title of Authorized Individual

12/17/10
 Date

Signature of a Foreign Representative

I declare under penalty of perjury that the information provided in this petition is true and correct, that I am the foreign representative of a debtor in a foreign proceeding, and that I am authorized to file this petition.

(Check only one box.)

☐ I request relief in accordance with chapter 15 of title 11, United States Code. Certified copies of the documents required by 11 U.S.C. §1515 are attached.

☐ Pursuant to 11 U.S.C. §1511, I request relief in accordance with the chapter of title 11 specified in this petition. A certified copy of the order granting recognition of the foreign main proceeding is attached.

X _____
 Signature of Foreign Representative

 Printed Name of Foreign Representative

 Date

Signature of Non-Attorney Bankruptcy Petition Preparer

I declare under penalty of perjury that: (1) I am a bankruptcy petition preparer as defined in 11 U.S.C. § 110; (2) I prepared this document for compensation and have provided the debtor with a copy of this document and the notices and information required under 11 U.S.C. §§ 110(b), 110(h), and 342(b); and, (3) if rules or guidelines have been promulgated pursuant to 11 U.S.C. § 110(h) setting a maximum fee for services chargeable by bankruptcy petition preparers, I have given the debtor notice of the maximum amount before preparing any document for filing for a debtor or accepting any fee from the debtor, as required in that section. Official Form 19 is attached.

 Printed Name and title, if any, of Bankruptcy Petition Preparer

Social-Security number (If the bankruptcy petition preparer is not an individual, state the Social Security number of the officer, principal, responsible person or partner of the bankruptcy petition preparer.) (Required by 11 U.S.C. § 110.)

 Address

X _____

 Date

Signature of Bankruptcy Petition Preparer or officer, principal, responsible person, or partner whose Social Security number is provided above.

Names and Social-Security numbers of all other individuals who prepared or assisted in preparing this document unless the bankruptcy petition preparer is not an individual:

If more than one person prepared this document, attach additional sheets conforming to the appropriate official form for each person.

A bankruptcy petition preparer's failure to comply with the provisions of title 11 and the Federal Rules of Bankruptcy Procedure may result in fines or imprisonment or both 11 U.S.C. §110; 18 U.S.C. §156.

Diabetes American, Inc.
(a Delaware corporation)

CERTIFICATE OF RESOLUTIONS

I, Nicholas Vita, Chairman of the Board of Directors of Diabetes America, Inc. (the "Corporation"), a Delaware corporation, do hereby certify that: (a) I am duly elected qualified and acting Chairman of the Board of the Corporation; (b) the following resolutions were duly adopted by the Board of Directors of the Corporation on November 24, 2010, in accordance with the requirements of applicable law; and (c) said resolutions have not been amended, modified or rescinded and are in full force and effect as of the date hereof:

"RESOLVED that the Corporation shall be, and hereby is, authorized to: (a) file a voluntary petition (the "Petition") for relief under chapter 11 of the United States Bankruptcy Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code"), in the United States Bankruptcy Court for the Southern District of Texas or such other court as the appropriate officer or officers of the Corporation shall determine to be appropriate (the "Bankruptcy Court"); (b) if, prior to filing the Petition, circumstances arise making it necessary or convenient, either (i) consent to the entry of an order for relief in an involuntarily commenced chapter 11 case or (ii) consent to the entry of an order for relief and convert an involuntarily commenced chapter 7 case to a case under chapter 11 of the Bankruptcy Code; and (c) perform any and all such acts as are reasonable, advisable, expedient, convenient, proper or necessary to elect any of the foregoing;

"FURTHER RESOLVED, that the chairman, the president, the chief operating officer, any executive vice president, any senior vice president, the secretary, the treasurer, the chief financial officer or the controller of the Corporation (collectively, the "Designated Officers") shall be, and each of them acting alone, hereby is, authorized, directed and empowered on behalf of and in the name of the Corporation to: (a) execute and verify the Petition as well as all other ancillary documents and cause the Petition to be filed with the Bankruptcy Court and make or cause to be made prior to execution thereof any modifications to the Petition or ancillary documents as any such Designated Officer, in such officer's discretion, deems necessary or desirable to carry out the intent and accomplish the purposed of these resolutions (such approval to be conclusively established by the executor thereof by such Designated Officer); (b) execute (i) a consent to the entry of an order for relief in an involuntarily commenced chapter 11 case, if any, or (ii) a request for conversion of an involuntarily commenced chapter 7 case, if any, to a case under chapter 11 of the Bankruptcy Code; (c) execute, verify and file or cause to be filed all petitions, schedules, lists, motions, application and other papers or documents (including debtor in possession loan agreements) necessary or desirable in connection with foregoing; and (d) execute and verify any and all other documents necessary or appropriate in connection therewith in such form or forms as any such Designated Officer may approve;

"FURTHER RESOLVED, that the Designated Officer of the Corporation shall be, and each of them hereby is, authorized directed and empowered to retain, on behalf of the Corporation: (a) Looper Reed & McGraw, P.C.; (b) Health Care Markets Group; and (c) any additional professionals, including attorneys, accountants, financial advisors, investment brokers, consultants or brokers, in each case as in such officer's or officers' judgment may be necessary in connection with the Corporation's chapter 11 case and other related matters, on such terms as such officer or officers shall approve;

"FURTHER RESOLVED, that the law firm of Looper Reed & McGraw, P.C. shall be, and hereby is, authorized, empowered and directed to represent the Corporation, as debtor and debtor in possession, in connection with any chapter 11 case commenced by or against it under the Bankruptcy Code;

"FURTHER RESOLVED, that the Corporation, as debtor and debtor in possession under chapter 11 of the Bankruptcy Code, shall be, and hereby is, authorized to borrow funds and undertake related financing transactions (collectively the "Financing Transactions") from such lenders and on such terms as may be approved the any one or more of the Designated Officers of the Corporation, as reasonably necessary for the continuing conduct of the affairs of the Corporation, and grant security interest in and liens upon all or substantially all for the Corporation's asset as may be deemed necessary by any one or more of the Designated Officers of the Corporation in connection with such borrowings;

"FURTHER RESOLVED, (a) that the Designated Officers of the Corporation shall be, and each of them, acting alone, hereby is authorized directed and empowered in the name of and on behalf of the Corporation, as debtor and debtor in possession, to take such actions and execute and deliver such agreements, certificates, instruments, guaranties, notices and any and all other documents as the Designated Officers may deem necessary or appropriate to facilitate the Financing Transactions (collectively "Financing Documents"); (b) that Financing Documents containing such provision, terms, conditions covenants, warranties and representations as may be deemed necessary or appropriate by the Designated Officers are approved; and (c) that the actions of the Designated Officer taken pursuant in this resolution, including the execution and delivery of all agreements, certificates, instruments, guaranties, notices and other documents, shall be conclusive evidence of the approval thereof by such officer and by the Corporation;

"FUTHER RESOLVED, that in addition to the specific authorizations heretofore conferred upon the Designated Officers of the Corporation, each of the officers of the Corporation or his or her designee shall be and each of them acting alone, hereby is, authorized, directed and empowered, in the name of and on behalf of the Corporation, to take or cause to be taken any and all such further actions, to execute and deliver any and all such agreements, certificates, instruments and other documents and to pay all expenses, including filing fees, in

each case as in such officer's or officers' judgment shall be necessary or desirable in order fully to carry out the intent and accomplish the purposed of the resolutions adopted herein; and

"FURTHER RESOLVED, that all acts lawfully done or actions lawfully taken or to be taken by any officer or officers of the Corporation in connection with the implementation of these resolutions are hereby in all respects ratified and denied and approved."

IN WITNESS WHEREOF, the undersigned has caused this certificate to be executed this 13th day of December 2010.

A handwritten signature in cursive script, appearing to read "Nicholas Vita", is written over a horizontal line.

Nicholas Vita
Chairman of the Board
Diabetes America, Inc.

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